

ORIGINAL

~~Before the~~  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 05-243
Table of Allotments	)	RM - 11363
FM Broadcast Stations	)	RM - 11364
(Meeteetse, Wyoming)	)	RM - 11365

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

FILED/ACCEPTED  
JUN 28 2007  
Federal Communications Commission  
Office of the Secretary

**REPLY TO OPPOSITION TO**  
**ORDER TO SHOW CAUSE**

Sand Hill Media Corporation and Sandhill Media Group, LLC (together, the "Joint Parties"), submit their Reply to the "Opposition to Order to Show Cause" filed in the above captioned proceeding by Brigham Young University – Idaho ("Brigham Young"). Brigham Young's Opposition argues that Station KBYI(FM) should not be forced to change channels because there are alternate channels available at Lima, Montana, that would obviate the need to change KBYI's channel. While this may be true that there are alternate channels, there are overriding public interest reasons for substituting KBYI's channel as specified in the Joint Parties Counterproposal. In support hereof, the Joint Parties state as follows:

1. The Joint Parties' Counterproposal in this proceeding proposed a number of changes to the FM Table of Allotments including (i) the allotment of Channel 262C2 at Lima, Montana as that community's first local service, and (ii) a change in the channel (from Channel 256C1 to 263C1) and site of KUPI-FM, Idaho Falls, Idaho. Both of these changes required KBYI to change channel (from Channel 263C1 to 232C1) at site. Thus, the Commission issued

an Order to Show Cause to Brigham Young as the licensee of KBYI to show why its channel should not be changed. Brigham Young has failed to do so.

2. The Joint Parties' Counterproposal as a whole will result in (i) first aural service to 325 persons, (ii) second aural service to 158 persons, (iii) first local service to Lima, and (iv) additional aural service to 61,000 persons as a result of the KUPI-FM change. These public interest benefits serve priorities 1, 2, 3, and 4 of the Commission's allotment priorities.<sup>1</sup> Notwithstanding these significant public interest benefits, Brigham Young opposes the Order to Show Cause by arguing that there are alternate channels available at Lima, which would eliminate the need to change KBYI's channel.

3. The Joint Parties do not oppose the allotment of an alternate channel at Lima, Montana as proposed by Brigham Young. However, the KBYI channel change is also necessary to permit KUPI-FM to change channels and site, which will result in a net gain in population of 61,000 persons, a priority 4 public interest benefit. The Commission has routinely held that priority 4 public interest benefits justify the issuance of an order to show cause.<sup>2</sup> If the Commission accepts Brigham Young's arguments and does not force KBYI to change channels, it will be elevating a licensee's preference for a certain channel over priority 4 benefits. This would clearly be contrary to the public interest.

4. The Joint Parties reiterate that they will reimburse Brigham Young for its reasonable expenses in changing channels in accordance with *Circleville, Ohio*, 8 FCC 2d 149

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<sup>1</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Aside from the significant public interest benefits of the Joint Parties' Counterproposal, the modification of KUPI-FM also will help it locate to a tower site that will allow it to improve its coverage.

<sup>2</sup> See, e.g., *Reclassification of License of Stations KMXV(FM), Kansas City, Missouri and KSRC(FM), Kansas City, Missouri*, 20 FCC Rcd 12182 (2005) (increase in population has sufficient public interest benefits and justifies the issuance of an order to show cause); *Valley Mills, Texas, et al.*, 19 FCC Rcd 10214 (2004) (allotment of a second local service justifies order to show cause); *Reclassification of License of Station KJEL(FM) Lebanon, Missouri*, 17 FCC Rcd 17115 (2002) (upgrade in class justifies order to show cause).

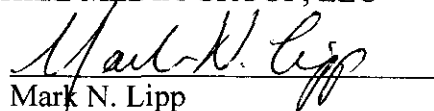
(1967). Thus, the FCC should dismiss Brigham Young's Opposition and grant the Joint Parties' Counterproposal in this proceeding so that its public interest benefits can be realized.

Respectfully submitted,

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June 28, 2007

## CERTIFICATE OF SERVICE

I, Elbert Ortiz, in the law firm of Wiley Rein LLP, do hereby certify that I have on this 28th day of June, 2007, unless otherwise noted, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Reply**" to the following:

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